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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,069	04/05/2001	Dustin M. Davis	027448.0006	7258

22202 7590 03/28/2005

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EXAMINER
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PYZOCHA, MICHAEL J

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/828,069	DAVIS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael Pyzocha	2137	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 16-43, 104-131 and 144-183 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 16-43, 104-131 and 144-183 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>04052001</u> . | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

1. Claims 16-43, 104-131, 156-183 and 144-171 are pending.
2. Response to election filed on 01/20/2005 has been received and considered.

***Election/Restrictions***

3. Applicant's election of Group II Species A2 in the reply filed on 01/20/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
4. Claims 44-52, 132-140, 184-192, 272-280 corresponding to non-elected species are withdrawn from consideration and should be canceled.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 16-43, 156-183 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to

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particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claims 16 and 156 recites the limitation "all master templates" in line 6. This is unclear because the preamble only discloses one mater template.

8. Any claims not specifically addressed are rejected based on their dependencies.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 16, 38-43, 104, 126-131, 156, 178-183, 244, 266-271 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gressel (US 6311272) and further in view of Hoffman et al (US 5613012).

As per claims 16, 104, 156 and 244, Gressel discloses a biometric system that stores multiple master templates and receiving unrestricted identification data from said applicant

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retrieving all master templates associated with said identification data; receiving a live image of a biometric sample from said applicant; generating a live template from said live image; and accessing said system if said live template corresponds to one of said more templates according to predefined criteria (see column 3 line 46 through column 4 line 17 and column 5 lines 9-13).

Gressel fails to disclose the system stores enrollment data and identification data comprising primary identification data, secondary identification data, if any, and financial account data, if any, for said applicant (for claims 5 and 21 Gressel discloses saving multiple copies as described in claims 4 and 20).

However, Hoffman et al teaches the system stores enrollment data and identification data comprising primary identification data, secondary identification data, if any, and financial account data, if any, for said applicant (see column 49 lines 52-63).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to save the personal and enrollment data from Hoffman et al with the biometric data of Gressel.

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Motivation to do so would have been to provide a safer and more convenient way to identify someone (see Hoffman et al column 50 lines 45-47).

As per claims 38, 126, 178, and 266, the modified Gressel and Hoffman et al system discloses receiving additional enrollment data from said applicant and storing said enrollment data (see Hoffman et al column 49 lines 52-63).

As per claims 39, 127, 179, and 267, the modified Gressel and Hoffman et al system discloses receiving additional identification data from said applicant and storing said enrollment data (see Hoffman et al column 49 lines 52-63).

As per claims 40-42, 128-130, 180-182, and 268-270, the modified Gressel and Hoffman et al system discloses receiving identification data from non-token means and from token means as a data card (see Hoffman column 49 line 52 through column 59 line 9 and Gressel column 3 line 46 through column 4 line 17).

As per claims 43, 131, 183, and 271, the modified Gressel and Hoffman et al system discloses a fingerprint (see Gressel column 6 lines 29-38).

11. Claims 17-37, 105-125, 157-177, and 245-265 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Gressel and Hoffman et al system as applied to claims 16, 104, 156, and 244 above, and further in view of Zoka (US 6591249).

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As per claims, 17, 105, 157, and 245, the modified Gressel and Hoffman et al system fails to disclose consummating a transaction.

However, Zoka teaches consummating a transaction (see column 1 lines 36-41).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Zoka's method of consummating a transaction in the modified Gressel and Hoffman et al system.

Motivation to do so would have been for identification and verification (see Zoka column 1 lines 34-35).

Claims 18-27, 106-125, 158-177, and 246-265 contain limitations regarding the properties of the financial and non-financial transactions, which are disclosed in the Gressel, Hoffman et al, and Zoka combination.

### **Conclusion**

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. "1998 Glossary of Biometric Terms" discloses many biometric techniques, Holloway (US 5604802) and Hsu et al (US 6038666) teach a biometric enrollment system and Hillhouse et al (US 20020154793) teaches the use of biometric templates.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ANDREW CALDWELL  
SUPERVISORY PATENT EXAMINER

MJP